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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 WILBERT ROGERS JR.,
12 Petitioner,

No. CIV-S-03-2638 MCE/DAD P

13 v.

ORDER

14 TOM CAREY, Warden,
15 Respondent.
16 _____/

17 Petitioner, a state prisoner proceeding pro se, has filed an
18 application for a writ of habeas corpus pursuant to 28 U.S.C.
19 § 2254. The matter was referred to a United States Magistrate
20 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General
21 Order No. 262.

22 On May 31, 2005, the magistrate judge filed findings and
23 recommendations herein which were served on all parties and which
24 contained notice to all parties that any objections to the
25 findings and recommendations were to be filed within fifteen
26 days.

1 Neither party has filed objections to the findings and
2 recommendations.

3 The court has reviewed the file and finds the findings and
4 recommendations to be supported by the record and by the
5 magistrate judge's analysis.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. The findings and recommendations filed May 31, 2005, are
8 adopted in full;

9 2. Respondent's March 14, 2005 motion to dismiss
10 petitioner's amended federal petition for writ of habeas corpus
11 is granted in part;

12 3. Claims II.B. and II.C. are dismissed from the amended
13 petition filed February 24, 2005, without leave to amend at this
14 time;

15 4. Petitioner's February 24, 2005 motion to hold these
16 proceedings in abeyance is granted;

17 5. Petitioner shall present all unexhausted claims to the
18 California Supreme Court in a further state habeas petition filed
19 within thirty days after this action is stayed, if all such
20 claims were not included in the state habeas petition filed on
21 April 5, 2005;

22 6. This action is stayed and the Clerk of the Court is
23 directed to administratively close the case;

24 7. Petitioner shall file and serve a status report in this
25 case on the first court day of each month until the stay is
26 lifted; and

1 8. Petitioner shall file and serve a motion to lift the
2 stay, along with a proposed second amended petition containing
3 only exhausted claims, within thirty days after petitioner is
4 served with the California Supreme Court's order disposing of the
5 state exhaustion petition.

6 DATED: June 30, 2005

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10 MORRISON C. ENGLAND, JR.
11 UNITED STATES DISTRICT JUDGE
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